IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

And
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION NO : 21086 of 2004

Between:

Smt. Ratnavat Mani, W/o. Late Ramulu,
R/o. Kotturu, Mahaboobnagar District.

..... PETITIONER

AND

1 The Collector and District Magistrate, Mahaboobnagar.
2 The Government of A.P., rep. by its Chief Secretary, Secretariat, Hyderabad.
3 The Superintendent, Central Prison, Cherlapally,
R.R.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a Writ of Habeas Corpus under Article 226 of Constitution of India directing the Respondents to produce the detenue Shri Rathlawath Bichya, S/o. Ramulu by way of quash the proceedings of the First Respondent herein vide his proceedings R.C.No. C1/4595/2004 Dt. 20.8.2004, now detained in Central Prison Cherlapally before this Hon'ble High Court and he may be ordered to be released forthwith after declaring his detention as illegal and void.

Counsel for the Petitioner: MR.V.SANKARA RAO

Counsel for the Respondents No.1 to 3: THE ADVOCATE GENERAL

The Court made the following:

Oral order: (Per: The Hon'ble Mr. Justice Bilal Nazki)

The detenu, who is the son of the writ petitioner, has been detained by an order dated 20-08-2004 under the provisions of the A.P. Prevention of Dangerous Activities of Boot Leggers, Dacoities, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbing Act, 1986 (hereinafter to be referred to as 'the Act') and is presently lodged in the Central Prison, Cherlapally, Ranga Reddy district.

The grounds of detention have been served on the detenu. The respondents have filed their counter.

We have found from the grounds of detention that the detenu has not been informed that he has a right to make a representation against the order of detention to the detaining authority. He has only been told that he has right to make a representation to the Chief Secretary, the Government of Andhra Pradesh, Hyderabad.

Learned counsel for the petitioner submits that the failure to inform the detenu that he has right to make a representation to the detaining authority is a clear infraction of Article 22 (5) of the Constitution of India, which has already been held by this court in various judgments viz., W.P.Nos. 20559 of 2004; 20160 of 2004; 20629 of 2004 and 21086 of 2004 dated 09-12-2004.

We agree with the learned counsel for the writ petitioner that the detenu has

been deprived of the valuable right to make a representation against his detention to the detaining authority. Therefore, the order of detention cannot survive. The writ petition is allowed. The detention order is quashed. The respondents are directed to release the detenu forthwith, if he is not required in any other case. No order as to costs.

_____

BILAL NAZKI, J

_____

CH.S.R.K. PRASAD, J

Dt. 09-12-2004

Pvks/*

The Rule nisi has been made absolute, as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday the Ninth day of December, 2004.

To

1 The Chief Secretary, the Government of A.P., Secretariat, Hyderabad.

2 The Collector and District Magistrate, Mahaboobnagar.
3 The Superintendent, Central Prison, Cherlapally,
R.R.District.

4.2CCs to the Advocate General, A.P. High Court Buildings, Hyderabad (OUT).

5.2CD copies

*Form-NIC-OGS/WP{**JGK**}*